IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7404 OF 2005

The Daund Taluka Sahakari Dudh Utpadak Sangh Maryadit (Proposed) : Petitioner

V/s.

The State of Maharashtra & Ors. : Respondents

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Mr.N.V.Walawalkar with Mr.Sanjeev Kadam for the petitioner.

Mr.S.R.Nargolkar, Asstt. Govt. Pleader for the respondent nos.1 to 3.

Mr.S.S.Salunkhe for the respondent no.4.

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CORAM : S.A. BOBDE, J.

October 25, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel for the respective respondents waive service of rule.

Heard by consent.

2. The petitioner, which is called The Daund Taluka Sahakari Dudh Utpadak Sangh Maryadit (Proposed) has

challenged the impugned order dated 18.10.2005 passed by one J.L.Pavara, Agriculture, Animal Husbandry, Dairy Development & Fishery Dept.

3. By the impugned order, the respondent no.4, The Subhash Anna Kool Daund Taluka Sahakari Dudh Utpadak Sangh Maryadeet (Proposed) has been permitted to open a Bank account and make further compliance for collecting milk.

4. The learned counsel for the petitioner submitted that the impugned order has been passed without considering an identical proposal which was made by the petitioner and submitted to the D.D.R. There cannot be any dispute in law that all the proposals ought to have been considered before permission was granted to one of the parties. The impugned order clearly shows that the order was passed without considering the petitioner's proposal on the ground that the proposal has not been received by the Government and, therefore, the petitioner's proposal was taken into consideration. This is not a valid ground since admittedly the petitioner had submitted their proposal to the D.D.R.

5. Mr.Nargolkar, the learned Asstt. Govt. Pleader for the respondent nos.1 to 3, on instructions from J.L.

Pavara, who has signed the impugned order, does not deny that the proposal was indeed submitted to the D.D.R. In this view of the matter, I am of view that the impugned order deserves to be set aside and the proposals which have been submitted in this regard shall be considered by the respondents before granting permission to collect dudh in the area of operation i.e. Daund taluka.

6. There is some dispute as to whether the respondent no.4 has acted in pursuance of the impugned order. The learned counsel for the respondent no.4 states that the respondent no.4 has already acted. This fact is denied by the learned counsel for the petitioner. In the circumstances, I am of view that pending a fresh decision, the respondent no.4 shall maintain status quo and shall not be entitled to claim any equity on the basis that they have acted upon the impugned order dated 18.10.2005 which, in my view, is vitiated on account of non-compliance of the principles of natural justice resulting from non-consideration of the proposals in this regard.

7. The impugned order is, therefore, set aside. The Principal Secretary, Dairy Development Department, Government of Maharashtra, shall consider the matter afresh and pass an appropriate order, in accordance with

law, after hearing all concerned and after taking into account all the proposals from the said taluka. The parties shall maintain status quo till then. The Principal Secretary shall decide the matter, as expeditiously as possible, and in any case, not later than six weeks from the date the parties appear before him. The parties are directed to appear before him on 14.11.2005.

8. The rule is made absolute in the above terms.

S.A. BOBDE, J.